HIGH COURT OF UTTARANCHAL AT NAINITAL
Writ Petition No. 3652 (M/S) of 2001
Old CMWP No. 4425 of 1995

Sri Lal Chand (since deceased) represented
Through his L.R. 1/1 Prem Prakas S/O Lal Chand,
Resident of village Roshanpur, Tehsil Gadarpur,
District Nainital.

….**Petitioner**

Vs

1. The State of Uttar Pradesh through the Collector Nainital.
2. The I Additional District Judge, Nainital.
3. The Prescribed Authority / Sub- Divisional Magistrate Rudrapur, District Nainital.

…….Respondents

Sri S.K. Mandal, learned counsel for petitioner.
Sri Nand Prasad, learned Standing Counsel for the respondents.

Date May 25, 2006.
PC: Hon'ble B.S. Verma, J.

This writ petition has been filed for quashing the impugned order dated 11-11-1991 (Annexure No. 2) as well as order dated 26-5-1994 (Annexure No. 3) to the writ petition passed by the Prescribed Authority and the appellate court respectively. By the order dated 11-11-1991, the Prescribed Authority passed order of eviction against the petitioner from the disputed land and vide order dated 26-5-1994, the appeal preferred by the petitioner before the Additional District Judge, Nainital was dismissed.

The record shows that proceedings under Sections 4/5 of the U.P. Act No. XXII of 1972 were drawn against the petitioner by the Prescribed Authority and a notice under Section 4 (1) of the said Act was issued to show cause as to why the petitioner be not evicted from the public premises. The case was registered as Eviction Case No. 22/226 of 1984-85 State Vs. Lal Chandra and the case was contested by the petitioner before the Prescribed Authority. Ultimately, the order of eviction was passed against the petitioner on 11-11-1991. Aggrieved by the said order, the petitioner went up in appeal before the District Judge Nainital, who

dismissed the appeal, hence the present writ petition has been filed. The petitioner Lal Chand died during the pendency of the writ petition, therefore, he was substituted by his legal heir son Prem Prakash.

I have heard the submissions of the learned counsel for the petitioner as well as learned Standing Counsel appearing on behalf of the respondents-State and perused the record.

At the outset, it may be mentioned that this Court vide judgment delivered today, i.e. on 25-5-2006 in Writ Petition No. 3235 (M/S) of 2001 Krishna Kant Vs. I Additional District Judge Nainital and others along with 42 other writ petitions have already considered the controversy involved in the present writ petition. All the 43 writ petitions preferred by different petitioners were allowed by that common judgment and it was held that the provisions of the U.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1972 were not applicable to the agricultural land and it was open to the State to proceed for eviction of the petitioners under the provisions of the U.P. Zamindari Abolition and Land Reforms Act/**KUZA** Act and other allied laws in force. It was also observed therein that the petitioners may also get their title declared by filing suit under Section 229-B of the Z.A. & L.R. Act/KUZA Act, provided they establish their stand before the Revenue Court. The learned counsel for the petitioner has submitted that the present writ petition is similar to the writ petitions already decided by this Court today, therefore, this case be decided in terms of the judgment passed in Writ Petition No. 3235 of 2001 (M/S). The learned Standing Counsel fairly conceded to this fact in the course of arguments.

In view of the fact that this Court has already decided as many as 43 similar writ petition by a common judgment today, coupled with the submissions made by the learned counsel for the petitioner, there is no need to repeat the same material again in the case at hand. The present writ petition is fully covered by the

judgment passed in Writ Petition No. 3235 (M/S) of 2001, Krishna Kant Vs. I Additional District Judge Nainital and others along with 42 other writ petitions decided by this Court today itself. This writ petition deserves to be allowed on merit in terms of the said judgment.

The present writ petition stands allowed in terms of the judgment passed by this Court in Writ Petition No. 3235 (M/S) of 2001, Krishna Kant Vs. I Additional District Judge Nainital. No order as to costs.

(B.S. Verma, J.)

RCP